

REMARKS

In the first office action in this RCE, the Examiner indicated that the claims were rejected under 35 U.S.C. 112, first paragraph, in that the claims contain subject matter which was not described in the specification in such a way to reasonably convey to one skilled in the art that we had possession of the claimed invention. The Examiner referred to a previous interview where we indicated that all of the steps of receiving, feeding, storing and correlating were performed by one of the users which was not shown in the prior art. The Examiner indicated that upon further inspection of the specification, he did not find any discussion that one of the "user member of the audience" was performing the receiving, feeding, storing and correlating steps. The Examiner indicated that there were various other language which was used including the term "monitoring station". However, the Examiner felt that there was no suggestion where the monitoring station performed the various steps indicated in the claims.

As a result, the Examiner again repeated the previous prior art rejection.

The present claims have been further amended to make use of the term that the Examiner himself found, namely "monitoring station". However, in that regard, the Examiner's attention is called to various locations, especially page 12, lines 9 and 10, where it completely states that the "encoded audio is broadcast and received by a monitoring station". It is thus clear that the monitoring station receives the broadcast. The term "broadcast" is used throughout the specification as indicating a public broadcast to an audience with many users receiving the broadcast. By way of example, page 1, lines 10 and 11, and line 19. Likewise, page 2, lines 3-5 also talks about broadcasters and general programming that they produce. Page 3, line 14 talks about broadcast television. Page 7, lines 18 and 19, discusses performance fees when music is

broadcast. Page 8, line 16 talks about music getting broadcast and its distribution. Page 9, line 5 talks about the broadcast markets. Other locations are also present.

All of these uses infer a public broadcast to users that typically receive radio or television broadcast signals of music and the like.

Furthermore, this definition as used in the present specification is consistent with standard use of the term "broadcast" in regular dictionary use. By way of example, in The Random House College Dictionary, Revised Edition, the term broadcast is defined as "to transmit over radio or television"; "to present on a radio or television program"; "to spread widely as news"; "to transmit programs or signals from a radio or television station"; "to scatter or disseminate something widely".

Accordingly, the use in the specification, the common use of broadcast and one that is generally understood by all is that broadcast is a performance on a radio or television or the like which is sent publicly to many end users.

With this in mind, page 12, lines 9 and 10, indicates that the monitoring station receives the broadcast. Accordingly, the monitoring station is receiving the broadcast just as any of the public receives the broadcast. The monitoring station is not monitoring an end user but is receiving the broadcast just as any other member of the public since that is where the broadcast goes to.

Furthermore, the specification points out that the ID is recognized and detected and this is compiled into a batch file. It further points out that all of the other steps take place in association with that batch file.

Accordingly, it is believed that just as Applicant's previous arguments with respect to the prior art, showing that it was not shown in the prior art, that any one picking up and receiving the

public broadcast would perform all of the these steps, likewise, such argument applies to the present amended claims where such is performed by the monitoring station which also publicly receives the broadcast.

Additionally, in connection with the claims reciting the feeding, storing and correlating in connection with monitoring "the broadcast", and anything related to the broadcast, and picking up the broadcast, including that the measurement, is unrelated to the users constituting the audience members of the public, all are discussed by the Examiner in the second paragraph on page 5 of his Official Action. The Examiner relies upon Ginter and specifically points out various locations. In particular, he points to col. 153, lines 53-59, lines 62-64 and various other locations in Ginter.

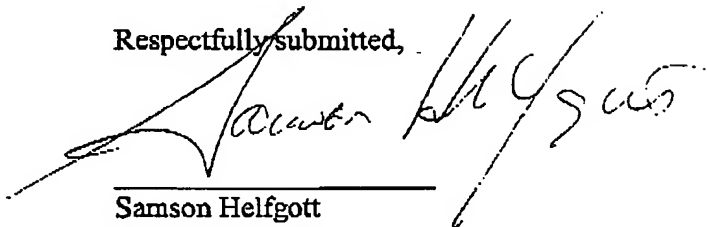
Each of those locations have been carefully reviewed in Ginter. It is respectfully contended that there is absolutely nothing in any of those locations identified by the Examiner that mentions anything about public broadcast, anything about monitoring the public broadcast, anything about detecting from the broadcast, anything that application has claimed, and which the Examiner has referred to in that paragraph as teaching Applicant's claims.

Accordingly, it is believed that this essential feature, which is basic to the present invention, and recited in the claims, has been consistently argued, is not provided in the location where the Examiner has indicated.

Accordingly, as it is believed that the previous arguments provided during Applicant's interview dated 10/4/2005 as reported by the Examiner, also apply to the present claims reciting the monitoring station, and as Ginter fails to provide the support as the Examiner indicates, it is respectfully believed that the claims are presently in condition for allowance and such allowance is respectfully requested.

Any fee due with the paper may be charged to Deposit Account 50-1290.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samson Helfgott", is written over a horizontal line. To the right of the signature, there are additional handwritten marks that look like "1/4/05".

Samson Helfgott
Reg. No. 23,072

CUSTOMER NUMBER 026304

Telephone No. (212) 940-8683

Fax: (212) 940-8986/8987

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